

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

JENNIFER HEFLEY,

*Plaintiff,*

v.

J&M SECURITIES, LLC,

and

SHANNON METZGER,

*Defendants.*

Case No. 4:15-cv-01578-ERW

**DEFENDANTS' MOTION TO DISMISS PLAINTIFF'S §§ 1692e(2)(A),  
1692e(5), 1692d, 1692f, 1692f(1) CLAIMS AND COUNTS II AND III  
OF PLAINTIFF'S COMPLAINT**

Defendants J&M Securities, LLC ("J&M") and Shannon Metzger ("Metzger") (collectively, "Defendants") move the Court, pursuant to FED. R. CIV. P. 12(b)(6), to dismiss Plaintiff's 15 U.S.C. 1692e(2)(A), 1692e(5), 1692d, 1692f, 1692f(1) claims and Counts II and III of Plaintiff's Complaint. In support of their Motion, Defendants state:

1. On October 15, 2015, Plaintiff Jennifer Hefley ("Plaintiff") filed a three-count Complaint against Defendants.

2. In Count I, Plaintiff alleges Defendants violated the Fair Debt Collection Practices Act, 15 U.S.C. 1692, *et seq.* ("FDCPA") in the following ways:

- a. Falsely representing the character, amount and legal status of the debt (1692e(2)(A));
- b. Threatening to take action that cannot legally be taken (1692e(5));
- c. Collection of an amount that is not permitted by law (1692f(1));
- d. Garnishing Plaintiff's wages during the automatic stay (1692d-f); and

e. Engaging in deceptive, harassing and unfair conduct in the collection of a debt (1692d-f).

3. Plaintiff's 1692e(2)(A), 1692e(5), 1692d, 1692f and 1692f(1) claims (subsections a, b, c and e, above) must be dismissed because they fail to state a claim on which relief can be granted.

4. In Count II, Plaintiff alleges Defendants issued wrongful garnishments in violation of Missouri law.

5. Count II of Plaintiff's Complaint must be dismissed because it fails to state a claim on which relief can be granted.

6. Count III of Plaintiff's Complaint alleges Defendants abused the legal process in violation of Missouri law.

7. Count III of Plaintiff's Complaint must be dismissed because it fails to state a claim on which relief can be granted.

WHEREFORE, for all of the reasons set forth above as well as those set out more fully in Defendants' Memorandum in Support of its Motion to Dismiss, Defendants request this Court dismiss Plaintiff's §§ 1692e(2)(a), 1692e(5), 1692d, 1692f, 1692f(1) Claims and Counts II and III of Plaintiff's Complaint, with prejudice, and for such other and further relief as the Court deems appropriate.

Respectfully submitted,

LOWENBAUM LAW

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**CERTIFICATE OF SERVICE**

I hereby certify that I have on this 9<sup>th</sup> day of November, 2015, served a true and correct copy of the foregoing via the Court's Electronic Filing System upon the following counsel of record:

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